

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA**

IN RE:	James Scott Dehart	:	Case No. 17-18549-ref
		:	
	DEBTOR	:	Chapter 13

OBJECTION TO PROOF OF CLAIM OF WELLS FARGO, NA

NOW COMES, James Scott Dehart ("Debtor"), by his attorney of record, Daniel J. Mazaheri, Esquire, and states as follows:

1. The Debtor commenced this action by the filing of a Chapter 13 petition on December 21, 2017.
2. Debtor is an owner of real estate, his home, located at 2207 Whitehead Road, Nazareth, PA.
3. Wells Fargo, NA, ("Creditor") filed a proof of claim on February 15, 2018, claim #1, a copy of which is attached as Exhibit A.
4. The Proof of Claim fails to set forth sufficient documentation that the filer of the claim is the true holder-in-due-course on Debtor's property or that the loan, if any, has been perfected.
5. The Proof of Claim is objected to for the following reasons:
 - a. *Res Judicata* and/or Issue Preclusion – the Creditor was a party to a prior lawsuit with the Debtor, concerning the same property, and failed to submit any claim against the Debtor. The prior case was in the Eastern District of Pennsylvania, No. 5:11-cv-00416-MSG. See Exhibit B. As such, the Creditor is prevented from ever raising any claim regarding missed mortgage payments in a court of law. It is important to note that the Debtor sued the Creditor in state court, but the Creditor had the case removed to the federal courts. In any case (no pun intended), the same creditor and the same debtor, for the same issues, litigated for over four years and at no time did the creditor bring a claim against the debtor surrounding missed payments.
 - b. Debtor's home was fully paid by the Creditor from the award of \$125,000.00 from a settlement between the U.S. Department of Justice and the Creditor, and for the benefit of the Debtor. If said amount was not paid, then the Creditor fraudulently converted said sum for its own illegal uses. See the payment table, Exhibit D.
 - c. In the alternative, Laches prevents the Debtor from claiming arrearages because the Creditor waited eleven years since this court ruled the Debtor

was current on his mortgage. See Court Transcript of Bankruptcy case number Case 05-20035-REF, Doc 85 Filed 09/09/10, from follow-up hearing held on September 14, 2006.

- d. In the alternative, the amount of the claim is clearly in excess of the allowed amount from the prior Southampton County, PA 2004 foreclosure, as modified by this court on September 14th, 2006, to be \$113,630.72. The sum-certain of an existing Pennsylvania judgment would prevent any claim in excess of that amount, without the necessary application for an amendment of that judgment by the Defendant within the statutorily allowed time. Since 2004, the default judgment on the Debtor's home has not been removed, and since the Creditor has voluntarily chosen to not include any future defaults on the existing loan, the Debtor can essentially live in the home without making any payments to the Creditor, unless the Debtor wishes to sell the home and then the principal balance would become due. See Court Transcript, Exhibit C.
 - e. There are additional fees and expenses claimed, including inspection fees, property valuations, taxes, attorney fees, document preparations which are not warranted and/or not approved by this Court. There are also payments made by the Debtor not properly credited by the Creditor.
6. Debtor, by his counsel, communicated with Creditor's counsel to avoid this objection and reach a resolution to this matter, but was unsuccessful.
 7. For all the reasons set forth above, it is respectfully requested that Debtor's Objection to Proof of Claim #1 be sustained and that counsel for Debtor be awarded counsel fees in the sum of \$650 for having brought this motion.

WHEREFORE, it is respectfully requested that Debtor's Objection be sustained, Debtor's application for above-written relief be granted, and for such other relief as this Court may deem just.

September 12, 2018

Respectfully submitted,

/s/ Daniel J. Mazaheri
Daniel J. Mazaheri, Esquire
PA Bar# 85561
P.O. Box 275
Lampeter, PA 17537
717 951-2322